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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,774	03/29/2004	Philip Ted Kortum	1033-LB1043	9506
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TOLER LAW GROUP 8500 BLUFFSTONE COVE SUITE A201 AUSTIN, TX 78759			PATEL, DHARRYA A	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/811,774	<b>Applicant(s)</b> KORTUM ET AL.
	<b>Examiner</b> Dhairya A. Patel	<b>Art Unit</b> 2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 29 March 2004.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-21 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-21 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)

Paper No(s)/Mail Date 2/27/2006

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

#### **DETAILED ACTION**

1. Application # 10/811,774 was filed on 3/29/2204. Claims 1-20 are subject to examination.

##### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim14-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As per claim 14, it is system claim which states " A connectivity indication system, comprising: **a user interface** coupled to a housing component, the **user interface** comprising a visual display portion; **a broadband modem module...;**".

In this case, "**a user interface**" is deemed software, and also "**a broadband modem module**" is deemed software perse. According the specification, in Paragraph 31, the system can includes software/firmware for devices, engines or platform or modules. Therefore the system is deemed software perse. Therefore claims 14-18 are deemed as nonstatutory subject matter.

##### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

***Claims 1-3,5-22 rejected under 35 U.S.C. 102(b) as being anticipated by Pitsoulakis et al. U.S. Patent Publication # 2003/0035471 A1 (hereinafter Pits).***

As per claim 1, Pits teaches a method of indicating connectivity comprising:

-establishing a communication link (Fig. 1 element 104) between a modem of a user (Fig. 1 element 102) and a network aggregation point (i.e. DSL provider)(Fig. 5 element 508)(Paragraph 39);

**NOTE:** The reference teaches each of the computers connected to the Ethernet hub on the access device (between the modem). The access device is connected to a single DSL line through which DSL services are provided by the DSL service provider (a network aggregation point).

-authorizing access by the modem to an information service (Paragraph 74,75)(Paragraphs 83,84);

**NOTE:** The reference teaches authorizing access by the access device to the Westell website for Internet Services.

-visually indicating an existence of the communication link at a first location of the modem (Fig. 4 element 402)(Paragraphs 34,37); and

**NOTE:** The reference teaches Ethernet hub has an Ethernet link LED (Fig. 4 element 402) (visually indicating existence of the link) which indicates the link status. When there is an Ethernet connection at an Ethernet hub (modem), the associated Ethernet link LED shows green light otherwise, when there is not connection, the Ethernet link shows no light.

-visually indicating an availability of the information service at a second location of the modem (Fig. 4 element 404)(Paragraphs 34, 37)(Table 1,2).

**NOTE:** The reference teaches Ethernet activity LED (Fig. 4 element 404) which indicates activity status. The reference also teaches when there is an Ethernet connection, the associated Ethernet activity LED flashes yellow light in a frequency relative to the intensity of the activities over the Ethernet connection. This shows the availability of the information service at the Ethernet hub (modem).

As per claim 2, Pits teaches the method of claim 1, further comprising: utilizing a first light emitting diode (Fig. 4 element 402) to indicate the existence of the communication link (Paragraphs 34,37); and utilizing a second light emitting diode (Fig. 4 element 404) to indicate the availability of the information service (Paragraphs 34, 37)(Table 1,2).

**NOTE:** The reference teaches Ethernet hub has an Ethernet link LED (Fig. 4 element 402) (visually indicating existence of the link) which indicates the link status. The reference teaches Ethernet activity LED (Fig. 4 element 404) which indicates activity status (availability of the information source).

As per claim 3, Pits teaches the method of claim 1, executing a Point to Point Protocol over Ethernet client in connection with establishing the communication link (Paragraph 43).

As per claim 5, Pits teaches the method of claim 1, further comprising communicating information from the information service to the modem via the network aggregation point (Paragraph 37).

As per claim 6, Pits teaches the method of claim 1, wherein the modem comprises a user interface having visual display capabilities (Fig. 2 elements 204,206,208,210,212)(Fig. 4 elements 402,404).

As per claim 7, Pits teaches the method of claim 6, wherein the user interface comprises the first location (Fig. 4 element 402) and the second location (Fig. 4 element 404)(Paragraph 37).

As per claim 8, Pits teaches the method of claim 1, further comprising distributing the modem to the user (Paragraphs 38,39).

As per claim 9, Pits teaches the method of claim 1, wherein the modem comprises an xDSL modem (Paragraph 14,75).

As per claim 10, Pits teaches the method of claim 1, wherein the modem comprises a cable modem (Paragraph 75).‘

As per claim 11, Pits teaches the method of claim 1, wherein the network aggregation point comprises a cable modem termination system (Paragraph 41, 44).

As per claim 12, Pits teaches the method of claim 1, wherein the network aggregation point comprises a digital subscriber line access multiplexer (Paragraphs 39,40).

As per claim 13, Pits teaches the method of claim 1, further comprising disabling an indication of the existence of the communication link in response to recognizing a loss of the communication link (Paragraphs 34, 37)(Tables 1,2).

As per claim 14, Pits teaches a connectivity indication system, comprising:

-a user interface coupled to a housing component (Fig. 2 element 204,206,208),  
the user interface comprising a visual display portion (Fig. 2 element  
204,206,208,210,212);

**NOTE:** The reference teaches visually displaying LED which a housing component (Fig. 204,206,208,210)

-the housing component at least partially defining an enclosure (Fig. 2 element 204,206,210,208,212)(Fig. 3,4);

**NOTE:** The displaying LED are partially defining enclosure since this is an open area of viewing the LED's.

-a broadband modem module (Fig. 2 element 200) secured within the enclosure (Fig. 2 element 204,206,208,210,212);

-a link detection mechanism communicatively coupled to the broadband modem module and operable to output a link signal in response to a determination that a communication link exists between the broadband modem module and a network aggregation point (Fig. 5 element 508)(i.e. DSL provider) (Paragraphs 34,37); and

**NOTE:** The reference teaches Ethernet hub has an Ethernet link LED (Fig. 4 element 402) (output link signal) which indicates the link status. When there is an Ethernet connection at an Ethernet hub (modem), the associated Ethernet link LED shows green light otherwise, when there is not connection, the Ethernet link shows no light.

-a data detection mechanism operable to output an access signal in response to a recognition that the broadband modem module enjoys access to a remote information service (Paragraphs 34,37);

**NOTE:** The reference teaches when there is an Ethernet connection at an Ethernet hub (modem), the associated Ethernet link LED shows green light otherwise, when there is not connection, the Ethernet link shows no light.

-a first indicator (Fig. 4 element 402)operable to be displayed within the user interface in response to the link signal (Paragraphs 34,37); and

**NOTE:** The reference teaches Ethernet hub has an Ethernet link LED (Fig. 4 element 402) (a first indicator) which indicates the link status. When there is an Ethernet connection at an Ethernet hub (modem), the associated Ethernet link LED shows green light otherwise, when there is not connection, the Ethernet link shows no light.

-a second indicator (Fig. 4 element 404)operable to be displayed within the user interface in response to the access signal (Paragraphs 34, 37)(Table 1,2).

**NOTE:** The reference teaches Ethernet activity LED (Fig. 4 element 404) which indicates activity status. The reference also teaches when there is an Ethernet connection, the associated Ethernet activity LED flashes yellow light in a frequency relative to the intensity of the activities over the Ethernet connection. This shows the access signal i.e. since there is activities with the network (modem).

As per claim 15, Pits teaches the system of claim 14, wherein the user interface comprises a plurality of light emitting diodes (Fig. 2 element 204,206,208,210,212)

within the visual display portion, further wherein the first indicator comprises a lighted one of the plurality of light emitting diodes and the second indicator comprises a different lighted one of the plurality of light emitting diodes (Paragraph 34,37).

As per claim 16, Pits teaches the system of claim 14, wherein the broadband modem module comprises a cable modem (Paragraph 75).

As per claim 17, Pits teaches the system of claim 14, wherein the broadband modem module comprises an xDSL modem (Paragraphs 14, 75).

As per claim 18, Pits teaches the system of claim 14, further comprising a PPPoE client executing on a processor secured within the enclosure (Paragraph 43).

As per claim 19, Pits teaches a method of generating connectivity awareness comprising:

-providing a subscriber with a broadband modem comprising at least a first indicator (Fig. 4 element 402) operable to display a connectivity status indicating whether a connection exists between the broadband modem and a network aggregation node (Paragraphs 34,37); and

**NOTE:** The reference teaches Ethernet hub has an Ethernet link LED (Fig. 4 element 402) (visually indicating existence of the link) which indicates the link status. When there is an Ethernet connection at an Ethernet hub (modem), the associated Ethernet link LED shows green light otherwise, when there is not connection, the Ethernet link shows no light.

-a second indicator (Fig. 4 element 404) operable to display a data status indicating an availability of access to a remote information service node (Paragraphs 34, 37)(Table 1,2).

**NOTE:** The reference teaches Ethernet activity LED (Fig. 4 element 404) which indicates activity status. The reference also teaches when there is an Ethernet connection, the associated Ethernet activity LED flashes yellow light in a frequency relative to the intensity of the activities over the Ethernet connection. This shows the availability of the information service at the Ethernet hub (modem).

-providing a broadband data service to the subscriber (Paragraph 42).

**NOTE:** The reference teaches DSL service provider providing DSL services to the user.

As per claim 20, Pits teaches the method of claim 19, further comprising: receiving a trouble shooting request from the subscriber, the trouble shooting request relating to the broadband service (Paragraph 7); and prompting the user to observe the first and second indicator (Fig. 4)(Paragraph 37)(Table 1,2).

As per claim 21, Pits teaches the method of claim 20, further comprising: receiving a communication indicating that the first indicator displays a positive connectivity status and the second indicator displays a negative data status (Paragraph 37); and determining an appropriate suggestion responsive to the trouble shooting request (Paragraph 37) (Table 1,2).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

***Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pits in view of Hartmaier et al. U.S. Patent # 6,553,022 (hereinafter Hartmaier)***

As per claim 4, Pits teaches the method of claim 1, but is silent in teaching communicating a user credential to an authentication server in connection with authorizing access to the information service. Hartmaier teaches communicating a user credential to an authentication server in connection with authorizing access to the information service (column 5 lines 21-36). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention as was made to implement Hartmaier's teaching in Pits's teaching to come up with communicating user credentials to a authentication server in connection with authorizing access. The motivation for doing so would be check whether the subscriber is an authorized subscriber to the ISP, therefore granting access if the credentials match, or denying access if credentials are invalid (column 5 lines 21-36).

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A). "Method and Apparatus for Telephone Line Testing" by Starr et al. U.S.

Patent # 7,003,078.

B). "Method and Apparatus for decreasing cable installation time and cable installation faults" by Cloonan et al. U.S. Patent # 7,047,553 (hereinafter Cloonan)

4. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the applicant (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

5.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dhairyा A. Patel whose telephone number is 571-272-5809. The examiner can normally be reached on Monday-Friday 8:00AM-5: 30PM, first Fridays OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DAP

/Ashok B. Patel/  
Primary Examiner, Art Unit 2154